

FIGURE 4-1. SAMPLE NOTICE OF AIRCRAFT CONDITION
UNDER SECTION 605 (b) OF THE FA ACT

November 26, 1988

Mr. Frank Brown
Senior Vice President, Engineering and Maintenance
XYZ Airlines
P.O. Box 1234
Calabash, Indiana 54321

Dear Mr. Brown:

On November 25, XYZ Airlines operated and continued to operate B-727, N123X, on a series of revenue flights when that aircraft did not meet applicable airworthiness requirements. Specifically, this aircraft's main left forward cabin door (emergency exit) did not function normally because of mechanical defects. In the event of an emergency it was apparent to the Federal Aviation Administration (FAA) that a flight attendant could not readily operate this door because of the door defect.

Instead of using methods, techniques, and practices acceptable to the Administrator to repair the door, XYZ Airlines elected to defer the repair and placed a certificated mechanic aboard this aircraft. His duties were to operate the door on a series of flights on this date.

Under the provisions of Section 605(b) of the Federal Aviation Act of 1958, as amended, XYZ Airlines was verbally notified on November 26, 1988, at 0040 A.M., through Acting General Foreman Fred Hank, that XYZ Airlines B-727, N123Y, was not in condition for safe operation and should not be used in air transportation.

This letter constitutes written confirmation of that verbal notification, which will remain in effect for a period of five (5) days commencing at the time of verbal notification. If the condition cited above is corrected prior to the five (5) day interval and inspected and found satisfactory by a FAA Inspector, the FAA will advise you in writing that the aircraft may then be operated in air transportation.

Notify GL-FSDO-34 when corrective action has been completed.

Sincerely,

EDWARD T. DEMERIT
Principal Maintenance Inspector

FIGURE 4-2. SAMPLE LETTER OF INVESTIGATION
FLIGHT OPERATIONS

July 5, 1987

File Number: 87CE040235

Mr. John D. Smith
1711 Colorado Avenue
River City, Iowa 51649

Dear Mr. Smith:

Personnel of this office are investigating an incident occurring on July 4, 1987, which involved the operation of Cessna aircraft N57785 in the vicinity of City Park at approximately 3:15 p.m.

The aircraft was observed and identified as Cessna N57785 diving on picnickers and bathers from 3:15 to 3:35 p.m. We were informed that Cessna N57785, piloted by you, landed at the airport at 3:45 p.m. Operation of this type is contrary to the Federal Aviation Regulations.

This letter is to inform you that this matter is under investigation by the Federal Aviation Administration. We would appreciate receiving any evidence or statements you might care to make regarding this matter within 10 days of receipt of this letter. Any discussion or written statements furnished by you will be given consideration in our investigation. If we do not hear from you within the specified time, our report will be processed without the benefit of your statement.

Sincerely,

JOHN L. DOE
Aviation Safety Inspector

ATTCH: PRIVACY ACT NOTICE - Figure 4-9.

FIGURE 4-3. SAMPLE LETTER OF INVESTIGATION
OPERATIONS

June 5, 1987

File Number: 87GL331004

Captain John Doe
27 Oak Street
Uptown, Ohio 44482

Dear Captain Doe:

This letter is in reference to Acme Airlines' Flight 5 of June 2, 1987, which touched down approximately 400 feet short of Runway 18 when landing at Metropolitan Airport. During a preflight inspection of the aircraft involved (Boeing 727 N3765), conducted prior to a turnaround departure of Flight 5, it was found that the landing gear had been damaged and the structural integrity of the airframe affected. Further investigation disclosed that the airport boundary fence located on the approach end of Runway 18 had been damaged. A section of an aircraft landing gear retract strut was found in this area that appears to be the one missing from the subject aircraft.

A check of the aircraft maintenance log failed to disclose an entry pertaining to this mechanical irregularity.

The landing short of the runway with subsequent damage to the boundary fence and the aircraft may also have endangered the lives of the other occupants of the aircraft.

This letter is to inform you that this incident is under investigation by the Federal Aviation Administration. Since you were the pilot in command, we wish to offer you an opportunity to discuss it personally and submit a written statement. If you desire to do either, this should be accomplished within 10 days following receipt of this letter. Your statement should contain all pertinent facts and mitigating circumstances which you feel may have a bearing on the incident. If we do not hear from you within the specified time, our report will be processed without the benefit of your statement.

Sincerely,

JOHN JONES
Inspector

ATTCH: PRIVACY ACT NOTICE - Figure 4-9.

FIGURE 4-4. SAMPLE LETTER OF INVESTIGATION
MAINTENANCE

July 1, 1987

File Number: 87CE350185

ABC Airlines, Incorporated
River City Municipal Airport
River City, Iowa 51649

Attention: Mr. John F. Johnson
Vice President, Engineering and Maintenance

Dear Mr. Johnson:

During a recent spot check of your maintenance facilities, irregularities were noted concerning maintenance procedures and records. Specifically, a record inspection conducted on June 21, 1987, revealed that ABC Airlines' B-727 aircraft, N-89760, was operated beyond a Number 2 check (165-hour periodic inspection) by zero hours and 41 minutes. It was also observed that ABC Airlines' L-1049H aircraft, N-59231, also exceeded a Number 2 check by 11 hours and 3 minutes.

We invite your attention to ABC Airlines' Maintenance Manual, Part III, pages 5 through 7, and the Federal Aviation Regulations.

This is to inform you that this matter is under investigation by the Federal Aviation Administration. We wish to offer you an opportunity to discuss the incident personally and submit a written statement. If you desire to do either, this should be accomplished within 10 days following receipt of this letter. Your statement should contain all pertinent facts and any mitigating circumstances which you believe may have a bearing on the incident. If we do not hear from you within the specified time, our report will be processed without the benefit of your statement.

Sincerely,

J. V. LOOKE
Aviation Safety Inspector

For letter to individual, ATTCH: PRIVACY ACT NOTICE - Figure 4-9.

FIGURE 4-5. SAMPLE LETTER OF INVESTIGATION
AIRPORT SECURITY

CIVIL AVIATION SECURITY FIELD OFFICE
International Airport
Crystal City, Washington 12345

May 25, 1987

File Number: 87NM710456

Mr. Bob Barns
Director of Aviation
Frod Air Terminal
Frod, Washington 12345

Dear Mr. Barns:

Lt. A. R. Wright, Commander, Patrol Division, Police Department, Frod, Washington, has advised us that on May 22, 1987, at approximately 1520 hours, XYZ Airlines Supervisor, Harry Honer, contacted Officer Dave Dipple and told him that a number of unbadged personnel had entered the Frod air operations area via the CAP baggage gate. Wright understood that these personnel were let onto the air operations area by an airport employee, however, after entering, they were unescorted.

This letter is to inform you that this office is investigating the circumstances surrounding the alleged failure to implement Section VI.B. of the Frod Airport Security Program, in violation of the Federal Aviation Regulations. We would appreciate receiving any evidence or statement you might care to make regarding this matter within ten (10) days following receipt of this letter. Your statement should contain all pertinent facts and any extenuating or mitigating circumstances which you feel may have a bearing on the incident. If we do not hear from you within the specified time, our report will proceed without the benefit of your statement.

Sincerely,

GARY G. GROUPER
Manager, CYS CASFO

For letter to individual, ATTCH: PRIVACY ACT NOTICE - Figure 4-9.

FIGURE 4-6. SAMPLE LETTER OF INVESTIGATION
AIRPORT OPERATIONS

December 2, 1987

File Number: 87GL810001

Airport Manager
ABC Airport
Frankly, Ohio

Dear Sir:

This letter is in reference to an accident which involved a Cox Airlines DC-10 aircraft which landed on Runway 10 at your airport November 26, 1987. The aircraft apparently struck a snowbank which sheared off the right main gear. Information reported to us indicates that this snowbank, exceeding the height limitations of Part 139 of the Federal Aviation Regulations, was located adjacent to the edge of Runway 10, approximately 4,000' from the approach end of that runway and that the appropriate notification had not been issued through the Notice to Airman System.

This letter is to inform you that this incident is under investigation by the Federal Aviation Administration. We wish to offer you an opportunity to discuss this matter in person or submit a written statement on this matter. If you desire to do either of these, the action should be accomplished within 10 days following receipt of this letter. Your statement should contain all pertinent facts and any extenuating or mitigating circumstances which you feel may have a bearing on this accident from an airport-related viewpoint.

If we do not hear from you within the specified time, our report on this matter will be processed for action without the benefit of your statement.

Sincerely,

JOHN PAUL JONES
Airport Certification Safety Inspector

For letter to individual, ATTCH: PRIVACY ACT NOTICE - Figure 4-9.

FIGURE 4-7. SAMPLE LETTER OF INVESTIGATION
MANUFACTURING
Manufacturer Quality Assurance System Breakdown
Product Shipped
(FAR Section 21.165 (a) and (b))

CERTIFIED MAIL

September 5, 19XX

File Number 84NM220010

Aircraft Builders, Inc
Attention: Mr. J. Smith
Acting Director, Quality Assurance
1234 Dish Street
Lizard Flats, Arizona 85000

Dear Mr. Smith

Aircraft Builders, Inc., the holder of Production Certificate No. 399NM, presented Aircraft Model ABI-1234-1, Serial No. 1234, for airworthiness certification on September 1, 19XX. This aircraft did not conform to type design and was not in a condition for safe operation.

Findings are as follows:

1. Passenger door P9 left did not open when attempting an escape slide deployment operation (reference QCM Section 9-1, Assembly Test Procedure No. 234).
2. When attempting an escape slide deployment on passenger door P9 right, the door opened but the actual slide inflation sequence was disrupted when the slide did not immediately separate from the slide packboard. When the slide did inflation, it was noted that the swedge had pulled off one of the release cables that extracted the soft cover retainer pins.
3. After slide/raft deployment of passenger door P4 right, a cut of approximately 3/8 inches was found in the raft, allowing air leakage. The cut was located at the lower forward end of the raft and approximately one inch from the lower end of the battery pack for the slide lights.
4. Right passenger compartment emergency oxygen doors failed to open when manual release in cockpit was actuated. Door locations as follows: 2S, 3G, P5R, 266GF, and 29GF. This condition does not meet the requirements of functional test procedure K6S82 Change AB, dated May 25, 19XX.

FIGURE 4-7, page 2.

5. Lavatory waste receptacle enclosure doors in all five (5) lavatories are not sealed for the containment of possible trash fires, as required per drawing 233267 dated April 1, 19XX, (reference Airworthiness directive 83-08-00, dated March 15, 19XX).

The Federal Aviation Regulations require that the holder of a production certificate shall maintain the Quality Control System in conformity with the data and procedures approved for the production certificate and shall make a determination that each completed product submitted for airworthiness certification or approval conforms to the type design and is in a condition for safe operation.

This letter is to inform you that this matter is under investigation by the Federal Aviation Administration. We would appreciate receiving any evidence or statements you might care to make concerning this matter within ten (10) working days of receipt of this letter. This evidence or statements should be in sufficient detail to establish quantity and location of any affected part. Any discussions or written statements will be given consideration in the final conclusion of our investigation. However, if we do not hear from you within the specified time, our report will be processed without the benefit of your statement.

Sincerely,

J.A. Magnum
Manager

For letter to individual, ATTCH: PRIVACY ACT NOTICE - Figure 4-9.

FIGURE 4-8. SAMPLE LETTER OF NOTIFICATION
CLOSING OF INVESTIGATION

August 15, 1987

File Number: 87 CE040235

John D. Smith
1711 Colorado Ave
River City, Iowa 51649

Dear Mr. Smith:

On July 5, 1987, you were advised that the Federal Aviation Administration was investigating an incident which reportedly occurred on July 4, 1987, in the vicinity of City Park, and involved your operation of Cessna N57785.

This letter is to inform you that our investigation has not established a violation of the Federal Aviation Regulations, and you may consider the matter closed.

Sincerely,

JOHN L. DOE
Aviation Safety Inspector

12/14/88

FIGURE 4-9. PRIVACY ACT NOTICE

This Notice is provided in accordance with Section (e)(3) of the Privacy Act, 5 U.S.C. Section 552a(e)(3), and concerns the information requested in the letter or form with which this Notice is enclosed.

A. Authority: This information is solicited pursuant to the Federal Aviation Act of 1958, 49 U.S.C. Section 1301, et seq., and regulations issued thereunder codified in Part 13 of Title 14 of the Code of Federal Regulations. Submission of information is voluntary. The request for information is intended to provide you with an opportunity to participate in the investigation.

B. Principal purpose: The requested information will be used to help determine whether or not there has been a violation of the Federal Aviation Regulations, and if so, what, if any, enforcement action should be taken.

C. Routine uses: Records from this system of records may be disclosed in accordance with the routine uses as they appear in System of Records No. DOT/FAA 847 as published from time to time in the Federal Register.

D. Effect of failure to respond: The FAA cannot impose any penalties upon you in the event that you fail to respond to this enforcement investigation letter. Failure to supply the requested information, however, will result in enforcement determinations without the benefit of your comments on the alleged incident.

FIGURE 4-10. CERTIFICATE OF AUTHENTICITY

CERTIFICATE

I, _____,
certify that this is a true and complete copy
or duplicate of: _____
located at: _____

Date: _____
Signature: _____
Office: _____

CHAPTER 5. SPECIAL INVESTIGATIVE PROCEDURES.

500. PURPOSE. While the guidance provided in Chapters 4 and 9 generally apply to the investigating and reporting of all violations, certain enforcement cases may require special handling. This chapter provides guidance for handling some special cases.

501. VIOLATIONS BY MEMBERS OF THE U.S. ARMED FORCES.

a. In accordance with section 1002(a) of the FA Act, when a member of the Armed Forces, while in the performance of official duties, is involved in a violation of the FAR, the FAA compiles all information in its possession and forwards it as a complaint to the Secretary of the Department concerned. The military authorities are required to conduct an independent investigation and advise the Administrator or his designee of the action taken.

b. Except as provided in subparagraph e., below, the inspector need not conduct the full investigation needed to satisfy an FAA enforcement action. However, the investigation must be sufficiently complete to enable the Assistant Chief Counsel to determine that there is adequate information to support referral of the complaint to the military. In such cases, the inspector shall --

(1) Gather all evidence and other information known to the FAA (e.g., controller statements, tapes, transcripts);

(2) Obtain statements or other evidence from sources outside of the FAA only to the extent necessary to validate the complaint;

(3) Prepare a factual statement of the complaint, including all information available to identify the incident and all facts and circumstances known to the FAA; and

(4) For statistical purposes, prepare an FAA Form 2150-5 from available information.

c. The field office forwards a transmittal letter along with the Form 2150-5, the inspector's statement, and all evidence, to the regional office for processing as soon as practicable following the incident.

d. The Assistant Chief Counsel refers the matter to the appropriate military department pursuant to Section 1002 of the FA Act (see paragraph 1003a).

e. Violations by members of the U.S. Armed Forces should be fully investigated and reported in accordance with instructions in Chapters 4 and 9 when --

(1) The alleged violator was not acting in the performance of official military duties; or

(2) The alleged violator, whether or not acting in the performance of official military duties, holds an FAA certificate and there is reason to question the qualifications of the alleged violator.

502. VIOLATIONS OF FOREIGN AVIATION REGULATIONS.

a. General.

(1) Violations of foreign aviation regulations by FAA certificate holders, U.S. citizens, or U.S. companies, may come to the attention of the FAA in the form of a complaint addressed to a U.S. Foreign Service Post, or by other means, such as in letters or telegrams from foreign aviation authorities addressed to FAA headquarters, regional or field offices. Such communications should be referred to the regional offices having geographical responsibility for the country filing the complaint.

(2) In all cases, the region having geographical responsibility for the country filing a complaint should investigate, report, and process the violation.

b. Investigation.

(1) Regardless of the manner in which the FAA learns of a violation of foreign regulations by FAA certificate holders, U.S. citizens or U.S. companies, the region having jurisdiction for the country filing the complaint is responsible for the investigation and ultimately reporting back to the foreign aviation authority that originated the complaint through, if

appropriate, the U.S. Foreign Service Post. In instances of particular significance, FAA headquarters may issue instructions for special handling to the responsible region.

(2) Any FAA investigation in a foreign country shall be conducted with the concurrence of the appropriate foreign aviation authorities and coordinated with the U.S. Foreign Service Post in that country.

(3) When additional vital information is needed from the foreign authorities submitting the complaint, such as copies of appropriate foreign regulations or arrangements necessary to pursue the investigation within the reporting country, the investigating office should direct the request to the foreign aviation authorities that submitted the original complaint. Information copies of such communications should be provided to the appropriate U.S. Foreign Service Post. (See paragraph 1003b. regarding processing of EIR).

503. VIOLATIONS OF U.S. REGULATIONS BY FOREIGN PERSONS OR COMPANIES. These violations are investigated and reported in accordance with Chapters 4 and 9. Since an enforcement file may be referred to a foreign government, it is very important that a thorough, comprehensive, factual investigation be conducted. The EIR must be accurate and conclusively prove the violations. When it is necessary to obtain investigatory evidence through a foreign government, the investigating office should consult with, and, if appropriate, obtain the assistance of the regional office having international responsibility for that geographical area. That region may, in turn, obtain the needed evidence through the appropriate U.S. Foreign Service Post. The investigating office will forward the completed EIR to its parent regional office for processing in accordance with paragraph 1003c.

504. VIOLATIONS BY AGENCY EMPLOYEES AND AGENCY-OPERATED REPAIR STATIONS.

a. When FAA employees or certificated repair stations operated by the FAA are involved in violations of the Federal Aviation Regulations, they are subject to FAA enforcement action in the same manner as violations involving industry or private persons.

b. When the violation is committed by an employee below the regional division manager level, the investigation and report will be conducted and processed by the regional division responsible for the geographical area in which the violation is discovered. Any required legal enforcement action will be processed by Assistant Chief Counsel for the region.

c. When the violation is committed by a regional division chief or above, investigation and processing is the responsibility of the appropriate Executive Director and the Chief Counsel.

d. The investigating office should coordinate closely with the employing region, whenever different, to assure that proper consideration is given to any personnel or administrative corrective actions taken in the matter by the employing region.

e. When the violation involves an agency-operated repair facility, the case will be forwarded by the regional division manager directly to the director of the facility listed below for corrective action.

(1) Headquarters Aircraft Management - to Office of Aviation Standards, AVS-1.

(2) Aeronautical Center - to Director, Aeronautical Center, AAC-1.

(3) FAA Technical Center - Director, FAA Technical Center, ACT-1.

(4) Other locations - to the office manager having repair station certificate responsibility.

505. VIOLATIONS OF THE HAZARDOUS MATERIALS REGULATIONS.

a. Under Section 110 of the Hazardous Materials Transportation Act, any person who violates a Hazardous Materials Regulation is subject to a civil penalty of not more than \$10,000 for each such violation. See paragraph 1207.

b. The investigation and reporting of violations of the Hazardous Materials Regulations are conducted in the same manner as violations of the Federal Aviation Regulations.

c. Section 110 of the Hazardous Materials Transportation Act further prescribes criminal penalties for willful violations. Should the investigation disclose evidence of possible willful violation of the Hazardous Materials Regulations, the matter should be handled in accordance with criminal violation procedures. See Chapter 6.

d. When a violation involves an incident that requires the submission of a Hazardous Materials Incident Report, DOT Form 5800.1, by the air carrier pursuant to 49 CFR 175.45(c), a copy of the DOT Form 5800.1 should be included in the file as an item of proof. This report is part of the documentation that may be used to verify a violation. The report must be made whenever, as a direct result of hazardous materials, any circumstances set forth in 49 CFR 175.45(c) occur, or there has been unintentional release of hazardous materials from a package. If no incident report was submitted, as required by 49 CFR 175.45(c), a violation report should be filed against the offending air carrier for this omission.

e. The investigating inspector should determine whether the alleged violator is operating under an exemption issued by the Office of Hazardous Materials Transportation (OHMT) and, in such case, advise the Civil Aviation Security Division, ACS-100, immediately. (ACS-100 will advise OHMT, as appropriate.) This information and action should be reported in the EIR.

506. VIOLATIONS BY INDIVIDUALS OF FAR SECTIONS 107.21 OR 108.11.

a. FAR Section 107.21.

(1). Sanction. Incidents which constitute an apparent violation of this section should be pursued through legal enforcement action. These incidents may also be criminal violations under section 902(i) of the FA Act and subject to investigation by the FBI and prosecution by a U.S. Attorney. Persons involved in such incidents may also be in violation of a state statute or local ordinance dealing with the carriage of weapons. For those cases where Federal or local authorities prosecute, the penalties incurred in such a proceeding may be considered in determining the appropriate sanction to be sought by the FAA.

(2) Procedure. Where witness statements will be needed to support a violation, such statements should be obtained as soon as the investigator is aware a violation has occurred. Individuals should be sent a standard letter of investigation. When a written response to the letter of investigation is not received, or upon receipt determined to be a denial of the allegation, a vigorous attempt to interview and obtain a signed statement from the individual.

b. FAR Section 108.11. During the conduct of an investigation of an air carrier for failure to prevent the carriage of a weapon aboard an aircraft, an attempt to interview the individual who carried the weapon should be made. When conducting the interview, the investigator must inform the individual that although the point of the the interview is to establish the facts relevant to the air carrier's actions, the individual may also be subject to enforcement actions for violation of 108.11 and 107.21, or criminal prosecution by other appropriate authority. Consult with legal counsel. In those instances where the information indicates the likelihood of such violations by the passenger, a separate EIR involving the passenger, to include all regulations alleged violated by the passenger, should be prepared.

507. VIOLATIONS BY INDIVIDUALS OF FAR SECTIONS 91.8, PROHIBITING INTERFERENCE WITH CREWMEMBERS. Incidents involving assault, intimidation, or threats against flight crewmembers or flight attendants may be criminal violations of Section 902(j) of the FA Act as well as violations of Section 91.8 of the FAR. These incidents are subject to investigation by the FBI for possible criminal prosecution by a U.S. Attorney, and they constitute an area of concern to the agency. Interference with crewmembers may seriously jeopardize aviation safety, preventing flight attendants from performing their functions, and often requiring flight crewmembers to leave their cockpit duty stations. An investigation shall be initiated in each instance, and coordinated in accordance with the procedures in Chapter 6. For those cases where Federal or local authorities prosecute, the penalties incurred in such a proceeding may be considered in determining the appropriate sanction to be sought by the FAA.

508. EXCLUSIVE RIGHTS AND UNJUST DISCRIMINATION AT AIRPORTS. Section 308(a) of the FA Act prohibits the granting of an exclusive right for the use of a landing area or air navigation facility upon which Federal funds have been

expended. Under assurances required by the airport grant program, an airport receiving Federal grants is prohibited from unjustly discriminating against users of an airport.

a. Agency regulations, policies, and procedures pertaining to exclusive rights and unjust discrimination at airports are set forth in FAR Parts 151 and 152, Agency Order 5190.6, Airports Compliance Requirements.

b. Agency personnel administering the airports compliance program are responsible for initial investigation of complaints alleging exclusive rights or unjust discrimination. Such complaints may require formal investigations or adjudications in accordance with FAR Part 13. In order to determine the applicability of FAR Part 13 and to assure that its applicable provisions are complied with, Airports field and division offices administering the airports compliance program should consult with the Assistant Chief Counsel when responding to such complaints.

509. CASES INVOLVING SUBMISSION TO ALCOHOL TESTING.

a. Background. Section 91.11(a) of the FAR prohibits acting or attempting to act as a crewmember of a civil aircraft --

(1) Within 8 hours after the consumption of any alcoholic beverage (91.11(a)(1));

(2) While under the influence of alcohol (91.11(a)(2)); or

(3) While having 0.04 percent by weight or more alcohol in the blood (91.11(a)(4)).

The violation of any one or any combination of these is grounds for legal enforcement action.

In addition, a crewmember of a civil aircraft is required, in certain circumstances, to submit to testing to indicate the percentage by weight of alcohol in the blood (91.11(c)(1) and 61.16). The request must be made by a law enforcement officer who is authorized under state or local law governing the same or substantially similar conduct as is prohibited by the FAA alcohol rules. The officer will not be enforcing FAA rules, however, the test results may be used by the FAA in an enforcement proceeding against a crewmember. There must be a reasonable basis to believe that a crewmember may have unlawfully used alcohol in connection with his or her duties. Compliance with the request is required of the crewmember. Failure to submit to the test could result in suspension or revocation of an airman certificate, and denial of a new certificate or rating. Offending flight attendants or other crewmembers who do not hold airman certificates are subject to civil penalty action. The law enforcement officer conducting or obtaining the test will be acting under his or her own state or local authority.

An alcohol test is necessary to prove a violation of FAR 91.11(a)(4) (the .04 rule), but it is not necessary to prove a violation of 91.11(a)(1) (the 8-hour

rule) or 91.11(a)(2) (the under-the-influence rule). As in the past, any alcohol test or other evidence (such as observations of crewmembers), which indicates a violation, may be used.

b. Individual situations. If any inspector has an indication that a person has served or attempted to serve as a crewmember in violation of the alcohol rules, he or she should investigate to the full extent practicable. The following are examples of how an investigation might be conducted. In this discussion, "inspector" is used broadly to refer to all FAA personnel who have authority to conduct investigations, e.g., Aviation Safety Inspectors and Civil Aviation Security Special Agents.

(1) Inspector on the scene. If an inspector encounters a crewmember whom he or she has reasonable grounds to believe (such as by personal observation or credible witnesses) is violating or has violated the alcohol rules, the inspector should investigate as follows:

A. Request identification. FAA pilot certificate and medical certificate is preferred; if none, request other form of official identification. Advise the individual not to fly or perform crewmember duties in violation of the alcohol rules. If the individual refuses to present identification —

(i) Attempt to identify the individual by contacting the local fixed base operator or other airport personnel; and

(ii) Determine name and address of the registered owner of the aircraft to assist in identifying the individual.

B. Contact the local law enforcement office with jurisdiction where the incident took place. Ask the officer whether he or she has authority to conduct alcohol tests or have tests conducted, and inform the officer of the FAA rules. If the officer indicates that he or she has authority to obtain the test, suggest that he or she investigate the incident and obtain the test. If the officer does not have authority to obtain the test, request that he or she investigate the incident and provide a statement as to his or her observations regarding the crewmember. In either event, the inspector should conduct a full investigation and collect all relevant — evidence regarding the violation.

C. The law enforcement officer's investigation might involve a field sobriety test which might be followed by a confirmation breath test or blood test. The confirmation test might be conducted at a hospital or police station.

D. If the crewmember is taken to a hospital or other medical facility for a blood test, the law officer will have the test conducted pursuant to state or local law. The inspector can obtain the results from the appropriate local law enforcement office, or request the crewmember to provide the test results under the authority of Section 91.11(c)(2) of the FAR. The inspector should ask the individual to sign a release form, such as

Figure 5-1, to assist in obtaining results. This may be done by letter, such as Figure 5-2. The Privacy Act Notice for submission to alcohol tests must be attached. See Figure 5-3.

The FAA can require the crewmember to give all alcohol test results taken within 4 hours after acting or attempting to act as a pilot in command or crewmember under Section 91.11(c)(2). If the investigator is unsuccessful in obtaining the test results from the police, a letter (certified, express, or hand delivered) should be sent to the crewmember with a release form, requesting that the crewmember furnish the test results or authorize the release of the test results to the FAA, or enforcement action may be taken. See Figure 5-2. If the crewmember fails to comply with the letter, the inspector should initiate enforcement action for violation of Section 91.11(c)(2). The draft letter includes a request for release of drug test results under Section 91.11(d), because generally the inspector will not know whether the questioned behavior is due to alcohol or drugs or both.

E. If an individual refuses to consent to the alcohol test when requested by the law enforcement officer, the inspector should initiate emergency or normal enforcement action depending on the circumstances and severity of the incident. The action might be based on a violation of Section 91.11(c)(a) for failure to take the test, and if the evidence warrants, Section 91.11(a)(1) and/or (2). Generally, if it appears the airman may exercise the privileges of the certificate, emergency action is appropriate.

F. If the individual tries to leave the scene, do not attempt to physically detain. Airport security or local law enforcement office should be called to take action under their authority. A description of the individual and any vehicle used, including license plate identification, should be noted for use in identifying the individual. If on a controlled airport, the inspector should notify air traffic control to attempt radar tracking in the event the individual takes off in the aircraft.

(2) Complaint. The district office may receive telephone notification or other complaint of operating or attempting to operate under the influence. If an inspector is unable to go to the scene, the law enforcement office nearest to the scene should be called for assistance. If the test is conducted, the evidence may be obtained as in (1), above. It is important to determine if the individual consumed any additional alcohol between the flying and the test.

C. Evidence and recommended action.

(1) The inspector should make sure that all evidence is preserved, regardless of whether an alcohol test was conducted. Such evidence may include statements of witnesses, the inspector's records of conversation with witnesses, police reports, hospital records, and test results. The inspector should attempt to show in the report the following evidence. This list does not identify all evidence which may be appropriate for an individual EIR, nor would the omission of one or more of these items necessarily preclude enforcement action.

A. When (time and date) the crewmember acted or attempted to act as a crewmember.

B. Identify each person (inspector, controller, police, other witness) who observed the questioned behavior, including both those whose observations do and do not support a finding that the crewmember violated the regulations.

C. Why the person in B developed the belief that the crewmember was under the influence of alcohol (observed the drinking, stumbling gait, slurred speech, odor, difficulty dealing with ATC, etc.) or was not under the influence, as the case may be.

D. When the belief in B was formed.

E. What action was taken by the witness.

F. The details of the police investigation (e.g. field sobriety test, confirmation test).

G. The time any alcohol test was done.

H. Whether the crewmember had an opportunity to drink between the alleged violation and the time the alcohol test was taken.

I. Indication of the qualifications of the person who conducted the test (e.g. verbal statement from the police officer that he had been trained).

(2) In all cases, the district office should consult a regional specialist and legal counsel as soon after the incident as possible, in case emergency action is necessary and to assist in identifying what evidence should be obtained.

(3) The inspector should evaluate whether violations of 91.11(a), (b), or (d), or a combination, should be charged. If the evidence does not establish an alcohol level of .04 or more it may still support a charge of violating (a) or (b). If the crewmember has refused to take a test, charging a violation of Section 91.11(c)(2) should be evaluated.

(4) If an individual operated or directed the operation of an air carrier while under the influence of alcohol, the inspector should consult with his or her regional office and legal counsel to determine whether to refer the case for criminal action under 49 U.S.C. 342.

d. Privacy Act. Due to the sensitivity of the alcohol test results, it is very important that the results not be released without careful review of Privacy Act requirements. As in any enforcement investigation, all evidence must be confidential. Request for release of information shall be handled in accordance with FAA Order 1200.23, Public Availability of Information. An enforcement report or any part of a report can only be released by legal counsel.

510.-599. RESERVED.

FIGURE 5-1. SAMPLE AUTHORIZATION FOR THE RELEASE
OF TEST RESULTS TO
THE FEDERAL AVIATION ADMINISTRATION

AUTHORIZATION FOR THE RELEASE OF TEST RESULTS TO
THE FEDERAL AVIATION ADMINISTRATION

TO WHOM IT MAY CONCERN:

I, _____, born on _____
(Name) (Date)

at _____, presently residing at
(City) (State or Country)

(Street address)

hereby authorize any clinic, hospital, doctor, or other person to
release to the Administrator of the Federal Aviation Administration,
or his duly authorized representative, the results of each test made

on a sample taken on _____
(Date)

between _____:_____ am/pm and _____:_____ am/pm,
Time Time

that indicates the level of alcohol in my blood or the presence of any drugs
in my body. This authorization is given pursuant to Sections 91.11(c) (2) and
91.11(d) of the Federal Aviation Regulations to investigate a possible
violation of Sections 91.11(a) (1), (a) (2), (a) (3), or (a) (4) of the Federal
Aviation Regulations.

Reproduction of this authorization shall be deemed as effective as the
original.

Date (Signature)

ATTCH: PRIVACY ACT STATEMENT - Figure 5-3

12/14/88

FIGURE 5-2, page 1. SAMPLE LETTER REQUESTING
RELEASE OF ALCOHOL TEST RESULTS

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

John Jones
43 Main Street
Hometown, OH 22222

Dear Mr. Jones:

An investigation by the Federal Aviation Administration indicates that on July 1, 1987, from about 12:00 p.m. to about 12:30 p.m., you may have operated an aircraft in violation of Sections 91.11(a)(1), (a)(2), (a)(3), or (a)(4) of the Federal Aviation Regulations. These sections provide:

(a) No person may act or attempt to act as a crewmember of a civil aircraft -

(1) Within 8 hours after the consumption of any alcoholic beverage;

(2) While under the influence of alcohol;

(3) While using any drug that affects the person's faculties in any way contrary to safety; or

(4) While having .04 percent by weight or more alcohol in the blood.

Pursuant to Section 91.11(c)(2) and (d), you are requested to furnish to the undersigned the results of each test taken within 4 hours of the above time that indicates the level of alcohol in your blood or the presence of drugs in your body, or to authorize any clinic, hospital, doctor, or other person to release to the undersigned such test results. Enclosed is a release form which you may complete and sign in order to authorize the release of such test results. Our investigation indicates that such a test was conducted on July 1, 1987, at about 2:00 p.m., at Hometown General Hospital, Hometown, Ohio.

Your failure to furnish the test results or signed release form within 7 days of service of this letter may result in the suspension or revocation of your pilot certificate for violation of Section 91.11(c)(2) or (d), or both.

Sincerely,

Mary Smith
Aviation Safety Inspector

Enclosure

ATTCH: PRIVACY ACT STATEMENT - Figure 5-3

FIGURE 5-2, page 2.

AUTHORIZATION FOR THE RELEASE OF TEST RESULTS TO
THE FEDERAL AVIATION ADMINISTRATION

TO WHOM IT MAY CONCERN:

I, John Jones, born on _____
(Name) (Date)at _____, presently residing at
(City) (State or Country)43 Main Street, Hometown, OH 22222

(Street address)

hereby authorize any clinic, hospital, doctor, or other person to
release to the Administrator of the Federal Aviation Administration,
or his duly authorized representative, the results of each test madeon a sample taken on July 1, 1987
(Date)between 12 : 00 am/pm and 4 : 00 am/pm,
Time Timethat indicates the level of alcohol in my blood or the presence of any drugs
in my body. This authorization is given pursuant to Sections 91.11(c) (2) and
91.11(d) of the Federal Aviation Regulations to investigate a possible
violation of Sections 91.11(a) (1), (a) (2), (a) (3), or (a) (4) of the Federal
Aviation Regulations.Reproduction of this authorization shall be deemed as effective as the
original._____
Date_____
(Signature)

ATTCH: PRIVACY ACT STATEMENT - Figure 5-3

FIGURE 5-3. PRIVACY ACT NOTICE FOR SUBMISSION TO ALCOHOL TESTS.

This Notice is provided in accordance with Section (e)(3) of the Privacy Act, 5 U.S.C. Section 552a(e)(3), and concerns the information requested in the letter or form with which this Notice is enclosed.

A. Authority: This information is solicited pursuant to the Federal Aviation Act of 1958, 49 U.S.C. Section 1301, et seq., and regulations issued thereunder codified in Part 13 of Title 14 of the Code of Federal Regulations, including Section 91.11(c)(2) and (d) of the Federal Aviation Regulations (14 C.F.R. 91.11(c)(2) and (d)). Submission of information is required.

B. Principal purpose: The requested information will be used to help determine whether or not there has been a violation of the Federal Aviation Regulations, and if so, what, if any, enforcement action should be taken.

C. Routine uses: Records from this system of records may be disclosed in accordance with the routine uses as they appear in System of Records No. DOT/FAA 847 as published from time to time in the Federal Register.

D. Effect of failure to respond: If you fail to provide the information requested, the FAA may take enforcement action.

CHAPTER 6. CRIMINAL INVESTIGATIONS

600. PURPOSE. The Federal Aviation Administration has responsibility for the investigation of certain criminal acts under the Federal Aviation Act of 1958, as amended (FA Act), and other criminal statutes. This chapter provides guidance for the investigation and processing of knowing and willful violations of criminal statutes within the investigatory jurisdiction of the FAA, and procedures for the referral and coordination of cases involving other criminal statutes. The statutes are paraphrased below for quick reference. The full texts of the statutes cited appear in Appendix 5, Selected Civil and Criminal Statutes.

601. COORDINATION OF POSSIBLE CRIMINAL VIOLATIONS.

a. When it appears to an FAA employee that there may be a violation of any criminal statute, in a matter involving aviation, that person shall immediately bring the matter to the attention of the regional office. The regional manager shall immediately coordinate with the Civil Aviation Security (CAS) Division and the Assistant Chief Counsel in accordance with Order 1600.38B, for referral to the appropriate office or agency for investigation, or to the U.S. Attorney for prosecution.

b. In any event, if safety requires, FAA personnel should take immediate action as necessary. Such action may include emergency revocation of a certificate or seeking an injunction in U. S. district court.

c. As in all cases, FAA personnel should identify possible witnesses and preserve other sources of evidence, but unless safety requires, agency personnel ordinarily should not speak to the alleged violator about the alleged violation once the possible criminal activity is identified.

602. CRIMINAL VIOLATIONS INVESTIGATED BY THE FAA. The Civil Aviation Security (CAS) Divisions in the regions should promptly investigate and report, under the provisions of FAA Order 1600.38B, all alleged or suspected criminal violations under the jurisdiction of the FAA, as follows:

a. Sections 902(a), (b), (c), (e), (f), and (g) of the FA Act (49 U.S.C. 1472 (a), (b), (c), (e), (f), and (g)):

- (1) General (criminal penalties) (902(a));
- (2) Forgery of certificates and false marking of aircraft (902 (b));
- (3) Interference with air navigation (902(c));
- (4) Failure to file reports; falsification of records (902(e));
- (5) Divulging information (902(f)); and
- (6) Refusal to testify (902(g)).

b. Willfully serving in any capacity as an airman, without proper airman certificate, in connection with the felonious transportation by aircraft of a controlled substance (Section 902(q) of the FA Act (49 U.S.C. 1472(q))).

c. Violations involving the security control of air traffic (Section 1203 of the FA Act (49 U.S.C. 1523)).

d. "Hazardous Materials" (Section 902(h) of the FA Act (49 U.S.C. 1472 (h))), and willful violations of the Hazardous Materials Regulations (Section 110(b) of the Hazardous Materials Transportation Act (49 U.S.C. 1809(b))).

e. Section 517 of the Airport and Airway Improvement Act of 1982 (49 U.S.C. 2216), False Statements: Relates to the making of a false statement, false representation, or false report to the Secretary by an individual or entity (an agent of the United States or otherwise) in conjunction with the submission of reports or documents required under that Act.

603. CRIMINAL VIOLATIONS INVESTIGATED BY OTHER DEPARTMENTS OR AGENCIES.

a. Violations under the Federal Aviation Act. Congress amended the FA Act of 1958 to add, in Section 902(i) through (n), and (r), certain criminal penalties, and expressly provided that they be investigated by the FBI. A field office becoming aware of these acts shall, in the case of air piracy, immediately notify the regional communication center, and in all other cases the CAS Division, who will advise the FBI. These acts include --

- (1) Aircraft piracy;
- (2) Interference with flight crewmembers or flight attendants;
- (3) Certain crimes aboard aircraft in flight;
- (4) Carrying weapons or explosives aboard aircraft;
- (5) False information and threats (regarding certain criminal acts);
- (6) Aircraft piracy outside special aircraft jurisdiction of the United States; and
- (7) Certain crimes regarding secured areas of airports.

b. Violations of other criminal statutes. The following are examples of provisions of Title 18, United States Code, for which FAA personnel may discover possible violations. Possible violations of these provisions should be handled in accordance with paragraph 601, above.

- (1) Willfully making false statements or representations in any matter within the jurisdiction of any department or agency of the United States (18 U.S.C. 1001).

(2) Willfully damaging any civil aircraft or part of a civil aircraft used in air commerce; any air navigation facility, hangar, terminal, other building, landing area, ramp, machine, apparatus, or other property used in connection with the operation, loading, or unloading of any such aircraft; willfully incapacitating any member of the crew of any such aircraft or willfully attempting to do any of these acts (18 U.S.C. 32).

(3) The willful or malicious reporting of false information, such as bomb threats or destruction of an aircraft (18 U.S.C. 35).

(4) The operation of a common carrier while under the influence of alcohol or drugs (18 U.S.C. 341 - 343). In this case, emergency revocation of the airman's pilot certificate generally should be undertaken immediately.

(5) Improper use of seals of any department or agency -- falsely making, forging, counterfeiting, mutilating, or altering such seal; knowingly using such seal; or possessing such seal with fraudulent intent (18 U.S.C. 506).

(6) False certificates or other writings made or given by public officers or other authorized persons (18 U.S.C. 1018).

(7) False and related activity in connection with identification documents (18 U.S.C. 1028).

(8) Obstruction of pending proceedings before agencies (including witness tampering) (18 U.S.C. 1505).

604. CONCURRENT CRIMINAL AND CIVIL VIOLATIONS. At times an incident requiring investigation by the FBI (or other Federal, state, or local law enforcement agency) may also be a violation of the FAR or involve some other related violation which falls within the investigative responsibility of the FAA. FAA personnel should proceed in accordance with paragraph 601. The required investigation of such an incident by the FAA must be closely coordinated with the FBI or other responsible law enforcement agency.

a. An example of joint responsibility is a case involving a passenger who carries a weapon aboard an aircraft and also drinks from his own liquor supply. Such a passenger could be in violation of Section 902(1) of the FA Act (an FBI responsibility) as well as FAR Sections 107.21, 108.11, 108.21, or 121.575. In such a case, the violations of the FAR should be investigated by the FAA in accordance with the procedures set forth in this Order.

b. Generally, FBI or other criminal investigations will be given priority and any FAA investigations will be held in abeyance when so required by the FBI, U.S. attorney or local authority. However, when it appears that aviation safety and the public interest require immediate certificate action or other enforcement action, the inspector, in coordination with legal counsel, shall complete the investigation (see paragraph 1215). In any case, close coordination shall be maintained with the FBI or other investigative or prosecuting agency.

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c. When the FAA agrees to hold its investigation in abeyance, the FAA shall offer assistance to the FBI and/or other agency, and request to be informed when the investigation has been completed.

d. Upon notification that the FBI (or other agency) investigation has been completed, the inspector shall consult with that agency to determine --

(1) Whether any evidence was procured which establishes a violation of the regulations;

(2) What, if any, criminal action is contemplated by the U.S. Attorney or other prosecuting attorney; and

(3) Whether additional investigation by the FAA is needed and whether it would jeopardize or otherwise interfere with any planned prosecutive action. In the event that no conflict would arise and further investigation is required, the inspector should promptly complete the FAA investigation.

e. When the FAA is requested to hold its investigation in abeyance for good cause until after the completion of the criminal action, the inspector shall notify the regional office and obtain guidance regarding the request.

f. The inspector should prepare a violation report, when sufficient evidence is available, either through FAA, FBI, or local agency investigations, to establish a violation of any FAR, even though criminal action is taken or contemplated by the Department of Justice or a local prosecutor.

g. Copies of official reports prepared by the FBI, or local agency, in connection with its investigation should not be included in the EIR. However, information from such reports may be used to obtain leads for the FAA inspector to seek evidence. In addition, to avoid unnecessary repetition in the FAA investigation, any evidence or other pertinent information made available to the inspector as a result of a FBI or local agency investigation should be incorporated in the EIR.

605. STOLEN AIRCRAFT. The investigation of stolen aircraft or avionics is a responsibility of the FBI or appropriate local law enforcement agency. However, FAA personnel and facilities are uniquely qualified to assist in the location and eventual recovery of such aircraft. FAA Order 1600.29B prescribes the procedures for FAA participation.

606.-699. RESERVED.

CHAPTER 7. FORMAL FACT-FINDING INVESTIGATIONS

700. PURPOSE. The purpose of this chapter is to provide guidance on the use of formal fact-finding investigations which may be instituted to assist the agency in finding facts material to the exercise of its functions.

701. AUTHORITY. Under Sections 313, 1002(b), and 1004 of the Federal Aviation Act of 1958, as amended (FA Act), Section 6(b) of the Administrative Procedures Act, and Section 109 of the Hazardous Material Transportation Act (HMT Act), the agency may conduct formal fact-finding investigations. Such investigations are conducted pursuant to an order of investigation issued under Part 13 of the Federal Aviation Regulations.

702. USE OF THE FORMAL FACT-FINDING INVESTIGATION. The fact-finding investigation involves the use of legal process as an investigative aid. For example, the FAA may order an investigatory hearing, utilizing the Administrator's authority under Section 1004 of the FA Act, to obtain evidence of possible violations. The fact-finding investigation procedure makes it possible to compel testimony and to obtain documents which would not be given or made available voluntarily. Also, formal fact-finding procedures can facilitate the gathering or preservation of evidence and the coordinated conduct of an interregional investigation, such as in a case which may result in revocation of the type certificate for an aircraft with widespread air carrier use, or a case involving the manufacture and nationwide distribution of bogus parts.

703. REQUESTS FOR FORMAL FACT-FINDING INVESTIGATIONS. When planning an investigation, or at any time during an investigation, the inspector may find that the formal fact-finding procedure is needed to conduct a full and complete investigation. For example, an inspector may be unable to obtain a statement from a key witness, or obtain essential records for FAA inspection. In such situations, the field office should request, through the regional division, the issuance of an order of investigation by legal counsel.

704. INITIATING THE FORMAL FACT-FINDING INVESTIGATION.

a. Within the FAA, the Administrator's powers to issue subpoenas, administer oaths, examine witnesses, receive evidence, require the production of records, take depositions, and enforce compliance with these processes in the conduct of formal fact-finding investigations have been delegated to legal counsel. When it is determined that a formal fact-finding investigation is necessary, legal counsel will issue an order of investigation pursuant to Part 13. See Figure 7-1.

b. It should be noted that the Administrator's authority under Section 1004 of the FA Act may be exercised pursuant to Part 13, in appropriate cases, without ordering a formal fact-finding investigation.

705. CONDUCT OF THE FORMAL FACT-FINDING INVESTIGATION. The presiding officer, as designated by the order of investigation, will conduct the investigation in accordance with procedures in Subpart F of Part 13. He or she may designate additional persons to assist in the investigation, such as inspectors from the investigating field offices. A written report of the

investigation will be prepared by the presiding officer. The purpose of the formal fact-finding investigation is to develop facts. It is not adjudicatory in nature. The investigating office, on the basis of evidence developed in the formal fact-finding investigation and any other information in its possession, shall recommend appropriate enforcement action. In the event that the presiding officer determines that evidence compiled during the formal fact-finding investigation supports a finding that air transportation or air commerce and the public interest warrant initiation of emergency action, the Emergency Order and the enforcement investigative report will be substituted in lieu of the written report.

706. USE OF ADMINISTRATIVE SUBPOENAS. In an investigation circumstances may arise under which the use of an Administrative Subpoena may be of assistance. A subpoena requires the person on whom it is served to provide either evidence or testimony on matters that are under investigation. Generally subpoenas are not required in an investigation, but where an attempt has been made to acquire evidence or information, and the holder of the information has refused to produce it, a subpoena may be used to compel production of the information. Subpoenas may be issued only by the Chief Counsel, the Deputy Chief Counsel, or an Assistant Chief Counsel. While most administrative subpoenas are issued to obtain records, documents or other physical evidence, they may also be used to obtain testimony.

a. A formal Order of Investigation is not a prerequisite to issuance of a subpoena. Subpoenas may be enforced under Section 1007 of the FA Act.

b. The following is general guidance for the use of subpoenas. It is not intended to restrict the use of subpoenas under other valid circumstances.

(1) Subpoenas should be used for valid investigative purposes to provide information or evidence that reasonably relates to the matter under investigation.

(2) Subpoenas may be served on the subject of an investigation or on other individuals who have information but are not the subject of the investigation.

(3) Other investigative means generally should be used prior to using a subpoena, unless there is reason to believe that the other means would not be effective. Normally a request should be made for items or information before requesting and serving a subpoena. If, however, there is reason to believe that evidence will be destroyed if a simple request for the evidence is made a subpoena may be issued and served as the first request for information.

(4) Many individuals or corporations, while willing to provide information, are reluctant to do so without a subpoena to protect themselves from action by the subject of the investigations. Under these circumstances they may be perfectly willing to produce the information when a subpoena has been issued.

b. In order to obtain a subpoena a request must be made to the Office of the Chief Counsel or to an Assistant Chief Counsel. The inspector provide the following information to counsel so that a determination can be made on the issuance of a subpoena:

(1) Why is a subpoena needed? This should include an explanation of why normal investigative techniques have not produced, or may not produce, the evidence sought.

(2) What is requested? If documents or evidence are requested, there should be an accurate description of the documents to be subpoenaed. The items requested should be reasonable in both their scope and duration. It should be recognized that response to a subpoena will be a burden on the person on whom it is served. Therefore, while all of the information or documents that needed should be requested, the subpoena should cover no more than it is reasonably expected may be needed to complete the investigation.

(3) Where are the documents or evidence located?

(4) Who is the custodian of the documents or evidence?

(5) Where do the documents or evidence need to be produced? Consideration should be given as to whether the documents need to be produced at an FAA office or at the place of business of their custodian, or whether they may be produced by mail.

(6) On what date should the items be produced? Under normal circumstances a reasonable time should be provided to allow for the documents to be produced. If there are reasons to believe that documents, records or evidence may be destroyed, consideration should be given to whether the items should be produced immediately. Under appropriate circumstances documents may be produced by mail.

c. Once a subpoena has been issued, generally it is served personally upon the individual or corporation. If the subpoena contains a "return of service" it is important that it be fully completed indicating to whom, when, where, and how service of the subpoena was made. If there is no return of service then a memorandum should be prepared specifically listing all of the details of how the document was served.

d. It is important that the investigator closely coordinate with counsel on the use of subpoenas and seek advice as to whether subpoenas will be of help and how they are to be used. Subpoenas can be a very effective tool in the investigatory process when other investigatory means have proven unsuccessful.

e. If the information or evidence sought is something that an airman or operator is required by statute or regulation to maintain and present to the agency, a failure to produce such information to the agency may be grounds for emergency suspension or revocation of a certificate, rather than using a subpoena to require production of the item or information.

707. JUDICIAL ENFORCEMENT. If a person refuses to comply with a subpoena or other order issued by the presiding officer or by legal counsel under Section 1004 of the FA Act, legal counsel may refer the matter to a United States Attorney for judicial enforcement.

708.-799. RESERVED.

FIGURE 7-1. SAMPLE ORDER OF INVESTIGATION

FEDERAL AVIATION ADMINISTRATION
WASHINGTON, D.C.

_____)
 In the Matter of the Investigation of ABC Airways,)
 Inc., Holder of Air Taxi Commercial Operator)
 Certificate No. 14-EA-69 to determine the)
 compliance of it and its personnel with)
 applicable portions of the Federal Aviation Act)
 of 1958, as amended, and the Federal Aviation)
 Regulations.)
 _____)

ORDER OF INVESTIGATION

Information has been received by the Federal Aviation Administration indicating that ABC Airways, Inc., and certain of its personnel may have violated certain portions of the Federal Aviation Act of 1958, as amended, and the Federal Aviation Regulations (FAR).

In order to determine to what extent, if any, ABC Airways, Inc., and its personnel have violated the Act, Section 43.13 of the FAR, and Parts 91 (Subpart C) and 135 (Subpart J) of the FAR, and to determine further if safety in air commerce or air transportation is jeopardized, the Administrator of the Federal Aviation Administration, acting by and through his Assistant Chief Counsel for Regulations and Enforcement, hereby orders that:

1. Pursuant to the authority in Sections 313, 609, and 1004 of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1354, 1429, and 1484), and Part 13 of the Federal Aviation Regulations (14 CFR Part 13), an investigation be conducted into the possible violations of the Federal Aviation Act of 1958, as amended, and the Federal Aviation Regulations by ABC Airways, Inc., and its present and past personnel.

2. Mr. John E. Doe hereby is designated to serve as presiding officer and is delegated the authority to conduct said investigation. He may be assisted by persons he designates, and he shall have the authority pursuant to Sections 313 and 1004 of the Federal Aviation Act of 1958, as amended, to take testimony, issue subpoenas, take depositions, administer oaths, examine witnesses, and such other authority as is contained in Section 1004 of the Federal Aviation Act of 1958, as amended.

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3. The investigation shall be conducted pursuant to procedures in Subpart F of FAR Part 13. At any hearing convened by Mr. Doe pursuant to this Order, he shall have full authority as presiding officer and he may be assisted by such persons as he designates. A verbatim record of any hearings or depositions will be kept, and questioning of all witnesses at such hearings or depositions shall be by Mr. Doe or his designee. Documents produced at such hearings or depositions pursuant to a subpoena issued by Mr. Doe shall be made a part of the record of such hearings or depositions only when so ordered by Mr. Doe.

Dated: August 18, 1987

RICHARD B. ROE
Assistant Chief Counsel
Regulations and Enforcement
Division

CHAPTER 8. REEXAMINATION AND REINSPECTION UNDER SECTION 609
OF THE FEDERAL AVIATION ACT

800. AUTHORITY. Under Section 609 of the Federal Aviation Act of 1958, as amended (FA Act), the Administrator is authorized to reinspect any aircraft, aircraft engine, propeller, appliance, air navigation facility or air agency, and to reexamine any airman. Reexamination or reinspection does not preclude the taking of punitive enforcement action when appropriate. When any certificate holder fails to comply with a request for reinspection or reexamination, Section 609 provides legal procedures to require that the certificate holder be reinspected or reexamined. The 609 reexamination or reinspection authority should be used when facts reasonably indicate that a certificate holder may not be qualified to hold a certificate. If the facts demonstrate that the certificate holder is not qualified, then reexamination is not appropriate and certificate action shall be taken to revoke the certificate based on a demonstrated lack of qualification.

801. PROCEDURES. When an inspector, a Regional Flight Surgeon, the Aeromedical Certification Branch (AAC-130), or the Federal Air Surgeon have reason to believe, either through reliable reports, personal knowledge, or on the basis of evidence obtained through investigation, that a certificate holder may not be qualified to exercise the privileges of a particular certificate or rating, a reexamination or reinspection may be required.

a. The investigating inspector, or office of medical responsibility, shall notify the certificate holder by certified mail that a reinspection or reexamination is necessary. See Figures 8-1 and 8-2. Generally, the certificate holder should be given a reasonable period of time in which to accomplish the reexamination or reinspection, but in some cases immediate action to suspend the certificate in accordance with paragraph e, below, may be appropriate.

b. The letter should specify the time, place, and subject of the reinspection or reexamination, giving reasonable consideration to the convenience of the certificate holder.

c. The inspector shall be careful to point out exactly the rating(s) on which the inspector wishes to conduct the reinspection or reexamination. The office of medical responsibility shall identify the specific information or history needed to determine whether the holder of an airman medical certificate meets appropriate medical standards, and class of medical certification which the FAA wishes to reexamine.

d. Where appropriate, the letter should state that enforcement action may be taken in addition to the reexamination.

e. If the certificate holder, within a reasonable time, fails to submit to reexamination or to comply with a request for reinspection, the following procedures should be followed:

(1) The field office, or office of medical responsibility, should prepare an EIR recommending emergency suspension of the certificate until such time as the holder submits to and passes a reinspection or reexamination. If the situation warrants, legal counsel should be notified immediately and requested to begin action prior to receipt of the full EIR. Counsel may require that essential evidence be forwarded without the EIR in order to initiate the emergency action.

(2) The EIR should contain the following:

A. The facts and supporting evidence that gave rise to the need for reexamination. For example, if an accident was the event that gave rise to the need for reexamination, the details of the accident should be described, with supporting evidence.

B. There should be an analysis explaining why the facts indicate that the certificate holder may not be qualified. For example, the file should specifically explain what it was about the accident that caused the inspector to question the competency of the airman.

C. There should be documentation in the file to prove that the certificate holder was requested to submit to a reexamination or reinspection and to prove that the certificate holder has not submitted to the reexamination or reinspection, unless it is determined that due to special circumstances the certificate should be suspended immediately without first requesting submission to the reinspection or reexamination.

(3) In cases where there may be enforcement action taken in addition to reexamination, the inspector should be careful not to mislead the airmen or operator into believing that the reexamination is the only action being taken. See Figure 8-1.

(4) Counsel shall initiate certificate action in accordance with the provisions of Chapter 12 when the evidence submitted is sufficient to establish that the certificate holder may not be qualified to hold the certificate or that safety in air commerce or air transportation and the public interest requires the suspension of the certificate pending satisfactory completion of reexamination or reinspection. Emergency certificate action generally is appropriate. There may, however, be circumstances where, in the discretion of counsel, it is more appropriate to proceed by notice rather than by emergency action.

(5) The action taken shall either order or propose the suspension of the certificate until such time as the holder submits to reinspection or reexamination and satisfactorily establishes qualifications to continue to hold the certificate and to exercise the privileges of such certificate.

(6) If the certificate holder appeals the Order suspending his certificate pending reexamination and such appeal is pending before the National Transportation Safety Board, reexamination should not be given to the airman until the airman withdraws his appeal.

(7) If the certificate holder satisfactorily establishes qualifications to continue to hold and use the certificate, the field office or office of medical responsibility shall issue a letter advising the certificate holder of that finding, with a copy to the legal counsel who issued the order. Legal counsel shall take appropriate steps to terminate the order, release the certificate stop order, and update the EIS.

(8) If a certificate holder whose certificate is suspended under this paragraph fails to submit to a reexamination or reinspection within a reasonable period of time, the certificate or rating should be revoked. The certificate should not be under suspension indefinitely pending the certificate holder submitting to a reinspection or reexamination. In this case, because the certificate already is suspended, emergency action generally will not be necessary.

f. If the certificate holder has submitted to a reinspection or reexamination and has not established qualifications, the following procedures should be followed:

(1) The investigating office or office of medical responsibility should prepare an EIR, recommending revocation of the certificate or rating. This generally should be on an emergency basis, unless an order suspending the certificate or rating is in effect.

(2) The EIR should be given a new report number. Any companion report number, which was assigned to an earlier EIR in connection with certificate suspension, should be shown in the "related number" block. If revocation action is taken against only part of the certificate, such as an airman rating, the appropriate field office or officer of medical responsibility should issue the necessary temporary certificate or new certificate with the remaining privileges. Evidence of the failure to demonstrate qualification should be included as an item of proof. For airman medical cases only, the EIR prepared by the office of medical responsibility need only consist of Section A (FAA Form 2150-5) and supporting documentation as shown in paragraph 801e(2).

(3) In some cases, it may be appropriate to suspend the certificate for a reasonable time pending proof of requalification. However, a certificate holder should not be permitted indefinitely to hold a certificate in order to have additional opportunities to prove qualification. Generally, if the certificate holder has twice submitted to a reinspection or reexamination, and has twice failed, the certificate should be revoked.

802.-899. RESERVED.

12/14/88

FIGURE 8-1. SAMPLE LETTER REQUESTING REEXAMINATION
UNDER SECTION 609 OF THE FEDERAL AVIATION ACT

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Dear Mr.. _____

Investigation of the accident/incident which occurred
at _____ on _____, gives reason
to believe that your competence as a certificated airman is in question and
that reexamination of your qualification to be the holder of _____
is necessary in the interest of safety. Therefore, pursuant to the Authority
contained in Section 609 of the Federal Aviation Act of 1958, as amended, you
are requested to call or appear at this office or a Flights Standards District
office more conveniently located to you no later than, _____, to
make an appointment for a reexamination. The reexamination will consist
of _____ and include the knowledge and skill necessary to be the
holder of _____ with emphasis on _____

If you make an appointment with a Flight Standards District Office in another
area, please advise this office.

If you do not accept the opportunity for reexamination by the date set forth
above, it will be necessary for us to start proceeding in suspend your airman
certificate until such time as you demonstrate your competence to exercise is
privileges. If, for reasons beyond your control, you are unable to be
reexamined at this time, please contact the undersigned prior
to _____ in order that a determination can be made whether a time
extension may be granted.

Please note that the incident which occurred on _____ is still under
investigation to determine whether other enforcement action is appropriate.
If additional enforcement action is to be taken you will be advised in a
separate letter.

We will be pleased to discuss this matter with you and provide any further
information which may assist you. Our office is open from _____
to _____, and our telephone number is _____.

Your cooperation in this matter will be appreciated.

Sincerely,

FIGURE 8-2. SAMPLE LETTER REQUESTING ADDITIONAL
MEDICAL INFORMATION

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Dear _____

You hold airman medical certificate _____ class, issued

Information provided this office indicates that you may not meet the requirements to hold your medical certificate. Accordingly, we are reexamining whether you meet the medical standards prescribed in Part 67 of the Federal Aviation Regulations.

This office has been advised that you have a history of _____, which could render you ineligible for continued airman medical certification.

Under the authority of Section 67.25(a) and 67.31 of the Federal Aviation Regulations, the Federal Aviation Administration is hereby reexamining your qualifications in order to determine your eligibility for continued airman medical certification.

It is necessary that within 30 days you provide this office with information pertaining to your medical history, to include dates of treatment, findings, symptoms, diagnosis, prognosis, and treatment (both past and present). We will require copies of all pertinent hospital records to include admission and discharge summaries and the results of all studies done.

In addition to the above, we will require that within 10 days you provide this office with the following:*

a. A list of all physicians or other health care professionals you have consulted within the past 5 years to include addresses and reasons for consultations.

b. A list of all periods of hospitalization to include names and addresses of hospitals and causes for admissions.

c. An accurate list of all traffic and other convictions you have had, to include dates, locations and dispositions.

d. Please execute and promptly return to this office the enclosed authorization for release of information (FAA Form 8500-21).

*The information should be structured to the specific circumstances.

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Pending determination of your eligibility for continued airman medical certification, you may wish to voluntarily surrender to this office any current airman medical certification in your possession. Your failure to provide the requested data within the time specified will necessitate our referral of your case to our FAA legal counsel.

You are reminded that your operation of an aircraft as pilot in command, or in any other capacity as a required pilot flight crewmember, while having a known medical deficiency, or after experiencing any adverse change in medical condition that would make you unable to meet the requirements for your medical certificate, would be a violation of Section 61.53 of the Federal Aviation Regulations.

Sincerely,

Anthony Ziegler, Jr., M.D.
Regional Flight Surgeon

Enclosures

CHAPTER 9. PREPARATION OF ENFORCEMENT INVESTIGATIVE REPORTS

900. GENERAL.

a. The Enforcement Investigative Report (EIR) is the means for documenting, assembling, organizing, and presenting all evidence and other pertinent information obtained during an investigation. Since it is the document from which determinations of violations and sanctions are made, the report must be well-prepared, factual, and provide the proof required to substantiate the enforcement actions contemplated.

b. If at any time during the investigation the inspector determines that no violation occurred, the inspector should terminate the investigation, and complete the applicable section of the EIR. If a letter of investigation was issued, all recipients should be notified that the matter has been closed.

c. If it is determined after evaluation of all the evidence obtained in the investigation that a violation did occur, either administrative action or legal enforcement action, as appropriate, should be recommended.

d. Extreme caution should be exercised in order to ensure that neither the alleged violator nor any other unauthorized person, is informed of the inspector's recommendations.

901. REPORT PREPARATION. All enforcement investigations shall be reported in accordance with instructions in this Chapter.

a. Administrative action or no action cases. When administrative enforcement action is taken, only Section A of FAA Form 2150-5 (Section A of the EIR) need be prepared in accordance with the guidelines obtained in paragraph 903. See Figure 9-1. For "no action" cases, only Sections A and B of the EIR need be prepared. See paragraphs 903 and 904. The field office or region may elect to prepare or have prepared a complete EIR in cases involving complex or sensitive investigations notwithstanding the fact that administrative enforcement action is recommended.

b. Legal enforcement action. For legal enforcement action, the entire EIR (Sections A, B, C, and D) should be completed. Form 2150-5 (Section A of the EIR) should be prepared in accordance with the guidelines in paragraph 903.

c. Criminal enforcement action. For criminal enforcement actions, the entire EIR (Section A, B, C, and D) should be completed and transmitted to the appropriate Assistant Chief Counsel for review and referral to the Department of Justice.

902. REPORT ASSEMBLY.

a. The Enforcement Investigative Report consists of four main sections:

(1) Section A, FAA Form 2150-5.

- (2) Section B, Summary of Facts.
- (3) Section C, Items of Proof.
- (4) Section D, Facts and Analysis.

b. Section dividers with preprinted tabs A through D may be used to separate the four main sections of the report. In addition, dividers may be used to separate the Item of Proof exhibits in Section C. While use of dividers is not mandatory, it is strongly recommended. These dividers are available as "Guide Cards, 508-929," from AAC-482, under stock number: 7530-00-475-1049.

903. SECTION A - PREPARATION OF FAA FORM 2150-5. Information blocks on Form 2150-5 should be completed in accordance with the guidelines in paragraph b below. The report number, which identifies a specific EIR, should be entered as a 10-digit code consisting of the year, the region, the field office, and a sequential number as outlined in Chapter 14 (example: 88WP010001). Related enforcement investigative reports should be entered, in the same code form, for any other EIR's associated with the same incident.

a. Information required on Form 2150-5 should be entered into EIS using an interactive terminal which displays information as it is keyed. This form may then be printed out for use in the EIR. General information about EIS data entry is provided in paragraph b below. The pertinent information to be entered into EIS follows the guidelines in paragraph c below.

b. Information is entered into EIS using an interactive terminal which displays information as it is keyed. As a specific item (data element) is completed, the system will perform edit and validation routines to ensure the accuracy of each data element. The system edits use tables, range checks, omission detection and date validation to prevent erroneous information from reaching the EIS database. When an error is discovered, the terminal will display a descriptive error message and sound an alarm. Two types of errors can be indicated by the system: Fatal, which must be corrected before the user can continue; and Warning, which is displayed to alert the user to a potential error situation. Refer to the EIS User's Manual for additional guidance on data entry edits.

c. Instructions for completing Form 2150-5.

(1) Name. Enter the name of the alleged violator. The entry should show an individual by last, first and middle name. (e.g., Smith, Ralph Duane). The name of a legal entity should be shown in full (e.g., All American Airlines, Inc.; Ralph Duane Smith d/b/a All American Airlines; Tri-County Airport Authority; etc.). A legal entity's name should be the standard in use for the organization, such as the air carrier designator, the name in the airport table, or other standard source.

(2) Address/Telephone Number. Enter the current mailing address, including ZIP code, of the individual or legal entity. When practicable, the field office should verify this data. If the mailing address is a post office box, a street address to which over-night deliveries may be made should be

included in the remarks section. The telephone number is not a field in the EIS, but a complete telephone number, with area code, should be written on the print-out Form 2150-5.

(3) Date of Birth. Enter, in numerals, the date of birth of the individual alleged violator, in a six digit year-month-day (YY-MM-DD) format (e.g., 41-12-15; 54-05-23). Leave blank if not appropriate.

(4) Sex. Enter male (M) or female (F).

(5) FAA certificate number. Enter the number of the FAA certificate held by the alleged violator, if related to the incident under investigation or the regulation believed violated. Use the code for NONE if no certificate is held.

(6) FAA certificate type. Enter the type of certificate referenced in Item (5) (e.g., commercial pilot; air carrier; airport operator; etc.). Leave blank if not appropriate.

(7) Aviation employer. Enter the alleged violator's employer if the alleged violation is related to that employment, and the employment involves a segment of aviation or aviation-related activity. In cases involving passenger violations, or passenger/nonpassenger screening/sterile-area violations, the name of the responsible air carrier(s) should be entered.

(8) Make. Enter the name or trade name of the manufacturer when an aircraft, aircraft engine, propeller, or aircraft component or appliance is involved in or related to the alleged violation. Blocks (8) through (12) may be left blank if not appropriate.

(9) Model. Enter the model of the aircraft, aircraft engine, propeller, appliance, or aircraft component, as appropriate.

(10) Identification No. For an aircraft, enter the identification number. For an aircraft engine, propeller, appliance, or aircraft component, enter the serial number when available.

(11) Owner. Enter the name of the owner of the aircraft or the aeronautical product involved in the alleged violation.

(12) Owner address. Enter the current mailing address of the owner listed in Item (11).

(13) Date occurred. Enter, in numerals, the date(s), on which the alleged violation occurred, in a six digit year-month-day format (e.g., 88-03-30).

(14) Time. Enter the local time at which the alleged violation occurred using military time (e.g., 1105 for 11:05 a.m.; 1435 for 02:35 p.m.). Leave blank if a specific time of occurrence is not appropriate.

(15) Date known to FAA. Enter, in numerals, the date on which anyone in the FAA first learned of the incident which later was determined to be a violation, in a six digit year-month-day format (e.g. 88-04-02).

(16) Region of discovery. Enter the two-character identifier of the region in which the altered violation was first discovered (e.g., NM). (Note: This may not be the region of occurrence.)

(17) Location. Enter the name of the geographic location where the violation is alleged to have occurred. Use the airport identifier and name (if appropriate), the city and state, and any information needed to describe the location relative to a specific airport or city. The airport identifier (reference FAA Order ATC 7350.5T) standardizes the airport information.

(18) Regulations believed violated. Enter all regulations violations believed substantiated by the evaluation and technical analysis. Be specific in identifying the regulations by section and subsection as appropriate. For example, if the rule believed violated is Section 91.169(a)(1), enter it as such; do not enter 91.169. In those cases where the regulation cited fails to adequately identify the act or aggravated circumstance involved, and the investigating inspector believes that clarification is necessary, a clear text statement of not more than 150 characters may be inserted in this block following citation of the rule believed violated. In medical cases, enter the appropriate section or subsection of the regulation believed violated (e.g., 67.20(a)(4)) or, in cases involving medical disqualification, the specific section or subsection which establishes the medical qualification in question (e.g., 67.15(e)(1)(i)).

(19) Type. Enter the two-digit code (see Appendix 3 for code listing) which best describes the type of activity the alleged violator was engaged in at the time of the alleged violation.

(20) Sub-type. Enter the two-digit code (see Appendix 3 for code listing) which best describes the sub-type of activity in which the alleged violator was engaged.

(21) Category. Enter the two-digit code (see Appendix 3 for code listing) which best describes the category of the alleged violation.

(22) Source. Enter the two-digit code (see Appendix 3 for code listing) for the source of the initial information relating to the alleged violation.

(23) Accident associated. Enter code 00 if an accident was not associated with the alleged violation, or code 01 if an accident was involved. If the alleged violation caused the accident, enter code 02. The NTSB definition of an accident is controlling.

(24) Security program. This section of the form is for use in security violations only. From one to eight individual two-digit codes may be entered in sequential order (see Appendix 3 for code listing).

(25) Type action recommended or taken. Enter one of the following actions (items 25 thru 28 need not be completed in airman medical cases):

- A. Administrative action
- B. Civil penalty
- C. Suspension
- D. Emergency suspension
- E. Revocation
- F. Emergency revocation
- G. Referral to DOD
- H. Referral to foreign government
- I. Criminal action

J. Other recommended action should also be entered in addition to one of the above, when appropriate (e.g., aircraft seizure; cease and desist order; injunctive action; order of compliance).

- K. No action

(26) Recommended sanction. Enter one of the following sanctions:

- (a) Warning Notice
- (b) Letter of Correction
- (c) The dollar amount for recommended civil penalty.

(d) The recommended duration for period of suspension (e.g., 180 days; pending compliance).

(e) No sanction need be entered when the recommended type action is other than administrative action, civil penalty, or suspension.

(27) Date. Enter the date signed by the field office chief.

(28) Investigating office. Enter the appropriate region or field office identifier (e.g., NW05; CE42). (See Chapter 14.)

(29) Regulations believed violated. Same as instructions for Item (18). If the investigating field office entered an incorrect regulation in item (18), the correct regulation should be cited. (See paragraph 1001b.) May be left blank for administrative actions.

(30) Recommended type action. Same as instructions for Item (25). (See paragraph 1001b.) May be left blank for administrative actions.

(31) Recommended Sanction. Same as instructions for Item (26). (See paragraph 1001b.) May be left blank for administrative actions.

(32) Date. Enter the date signed by regional division.

(33) Region. Enter two-letter identifier for the reporting region (e.g., GL, NM, SO).

904. SECTION B - SUMMARY OF FACTS. The Summary of Facts is the second element of the EIR package and is assembled as a separate item behind Form 2150-5. The Summary is a concise statement of those facts, established through the investigation, that are essential to proving the violation of each of the listed regulations. Where the rule lends itself, the wording of the Summary should tie directly to the wording of the particular regulation. The Summary need only briefly identify the "who did what, when, where, why and how" to assure clarity and understanding, since the details of the investigation and a complete statement of the facts and circumstances will be set out in the Facts and Analysis Section of the EIR. When the investigation fails to prove the allegation, the Summary should so state.

905. SECTION C - ITEMS OF PROOF. The items of proof are the third element of the EIR, and should contain the originals of each exhibit submitted. When the size or nature of physical evidence precludes enclosing it with the report, appropriate photographs of such evidence should be included.

a. Section C should contain a numerical index of the items of proof, with a brief statement of each item's content. Each item of proof should be numbered consecutively as an exhibit.

b. The item of proof exhibits should be listed in a logical order to facilitate review.

c. Each item of documentary evidence referenced in the Facts and Analysis (Section D of the report) should be included as an exhibit.

d. The proof should include summaries of each conversation the inspector had with the airman, the witnesses, or anyone having any connection with the case. Each summary should include the name, address and telephone number of each person the inspector interviewed. If more than one inspector was present during the conversation, each inspector should prepare a summary of the conversation. See paragraph 406 for guidance.

906. SECTION D - FACTS AND ANALYSIS. This section contains, first, a complete factual statement of the investigation of the alleged violation and, second, the inspector's evaluation and analysis of the results of the investigation and all pertinent safety and enforcement factors.

a. Facts. Describe all the pertinent facts and circumstances. There should be an orderly and logical statement of each significant fact and related investigative action, with a reference to specific supporting exhibits. It may be appropriate to briefly describe the origin or the basis of the investigation, and it is usually helpful to the reader if the statement

is organized in chronological fashion. The inspector has latitude to go into as much detail as necessary to assure an understanding of the investigation and violation. He should provide the depth of detail to suit the complexity and nature of the particular case.

Note that this is not the place to introduce additional evidence, such as information learned in conversations with the alleged violator or witnesses. All evidence of the violation should be fully supported in Section C by witness statements, ramp inspection reports by the inspector, etc.

b. Analysis. Set out an analysis as to how safety was or was not affected, the violator's attitude, enforcement history, and economic and livelihood considerations. The reliability of evidence should be evaluated and conflicting evidence discussed. It may be necessary to again reference specific supporting exhibits. The inspector should fully analyze the alleged violator's explanation regarding the incident, such as appears in the interview record or the person's response to the letter of investigation. Mitigating, extenuating, and aggravating factors should be set out. The inspector's opinions, feelings and conjectures should be included where appropriate but care should be taken to label them as such. The inspector should provide a conclusion and set out the reasons justifying the recommended enforcement action and sanction. For a list of items to be included in the analysis, refer to paragraph 207.

If any information is received after the EIR is forwarded to the region, the inspector should prepare an analysis and forward it to the region with the information. This analysis should indicate whether, based on the information, the inspector has changed his or her conclusions or recommendations regarding the facts, the regulations violated, or proposed sanction.

907. PROTECTION AND RELEASE OF EIR'S.

a. Protective markings. Enforcement investigative reports normally qualify for the designation of "FOR OFFICIAL USE ONLY" (FOUO) and should be so marked unless the report contains national security information requiring a security classification. (See Order 1600.15D, Control and Protection of FOUO Information).

b. Release of investigations. Request for release of the EIR or investigative information should be handled in accordance with FAA Order 1200.23, Public Availability of Information. An EIR or any part of an EIR should be released only with the concurrence of the Assistant Chief Counsel. Information of a security nature may be released only by the Director, Office of Civil Aviation Security, ACS-1, in accordance with FAR Part 191.

908. EMERGENCY ENFORCEMENT ACTIONS. The appropriate handling of a violation requiring emergency certificate suspension or revocation frequently will involve initiation of such action, through the Assistant Chief Counsel, prior to actual completion of the EIR. An advance or partial EIR should be prepared and forwarded, and legal counsel should be provided copies of all evidence that supports the alleged violation. The complete EIR package should be completed as expeditiously as possible.

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909. REGIONAL COPIES. The distribution requirements of paragraph 1405 do not provide for a regional division copy of the EIR package. If an additional copy of the report is desired, divisions may either make copies or request that the field offices provide an additional copy.

910. DOWNGRADING OF EIR's. EIR'S initiated by the field office or regional division for legal enforcement may, in some cases, be returned for downgrading to administrative action or no action (paragraph 1002b(5)). In this case, the investigating office should prepare and process an appropriate EIR using the same EIR number shown on the original, and with the annotation at the top of the form, "DOWNGRADED."

911. - 999. RESERVED.

FIGURE 9-1.

RIS: FO 2150-1

ENFORCEMENT INVESTIGATIVE REPORT <small>(Read Order 2150.3 for instructions)</small>				REPORT	
				NUMBER	RELATED NUMBER
ALLEGED VIOLATOR IDENTIFICATION					
1. NAME			2. ADDRESS (include zip code)		
TELEPHONE NUMBER (include area code)		3. DATE OF BIRTH		4. SEX <input type="checkbox"/> MALE <input type="checkbox"/> FEMALE	
5. FAA CERTIFICATE NUMBER		6. FAA CERTIFICATE TYPE		7. AVIATION EMPLOYER	
AIRCRAFT, ENGINE, PROPELLER, COMPONENT OR APPLIANCE INVOLVED					
8. MAKE		9. MODEL		10. IDENTIFICATION NUMBER	
11. OWNER			12. ADDRESS (include zip code)		
ALLEGED VIOLATION					
13. DATE OCCURRED		14. TIME		15. DATE KNOWN TO FAA	
16. REGION OF DISCOVERY					
17. LOCATION					
18. REGULATIONS BELIEVED VIOLATED					
RELATED DATA					
19. TYPE <input type="checkbox"/> <input type="checkbox"/>		20. SUB TYPE <input type="checkbox"/> <input type="checkbox"/>		21. CATEGORY <input type="checkbox"/> <input type="checkbox"/>	
22. SOURCE <input type="checkbox"/> <input type="checkbox"/>		23. ACCIDENT ASSOCIATED <input type="checkbox"/> <input type="checkbox"/>			
24. SECURITY PROGRAM <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>					
INVESTIGATING FIELD OFFICE RECOMMENDATION					
25. TYPE ACTION		26. SANCTION		REPORTING INSPECTOR (Typed name)	
27. DATE		28. INVESTIGATING OFFICE		CINER (Typed name and signature)	
REGIONAL DIVISION REVIEW					
29. REGULATIONS BELIEVED VIOLATED				30. RECOMMENDED TYPE ACTION	
				31. RECOMMENDED SANCTION	
32. DATE		33. REGION		TYPED NAME/TITLE/SIGNATURE OF APPROVING OFFICIAL	

FAA Form 2150-5 (4-88) SUPERSEDES FAA FORMS 1850-5, 6700-5, 8030-1 AND 8030-2 FOR OFFICIAL USE ONLY